IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 10039 of 2004

For Approval and Signature:

HON'BLE MR.JUSTICE M.R. SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

IBRAHIM AHMED MALIYA

Versus

GAS AUTHORITHY OF INDIA LTD

Appearance:

1. Special Civil Application No. 10039 of 2004

MR BS PATEL for Petitioner No. 1-10

MRS RANJAN B PATEL for Petitioner No. 1-10

M/S TRIVEDI & GUPTA for Respondent No. 1

RULE SERVED for Respondent No. 2

CORAM : HON'BLE MR.JUSTICE M.R. SHAH

Date of decision: 24/12/2004

ORAL JUDGEMENT

#. In this petition filed under Article 226/227 of the

Constitution of India, the petitioner have challenged the Gas Authority of India Limited (`GAIL' for short) under Section 8 of the Petroleum and Mineral Pipeline (Acquisition of Rights of User in Land) Act, 1962 (the `Act' for short) and also challenged the award passed by respondent No.2 competent authority, Gujarat State (GAIL), Vadodara awarding the compensation. The petitioners have also prayed for appropriate writ, order and direction directing the respondent authorities to restore the petitioners' land as it was prior to issuance of the notice at Annexure-A.

#. The notice under Section 8 of the Act with regard to taking over the possession of the land in question for the purpose of laying down the pipeline came to be issued on 6.12.2001. The petitioners had not challenged the said notice immediately and the petitioners allowed respondent No.1 to take over the possession and laying down the pipeline. Not only that, but thereafter award came to be passed with regard to awarding compensation under Section 10(1) of the Act as back as on 22.3.2002. The petitioners at that time also did not challenge the action of the respondents and have challenged the same for the first time by filing this petition on 26.2.2004. Even thereafter also the petitioners have not moved the petition immediately and the petition for the first time came up for hearing in the month of October 2004. There is no explanation whatsoever in the petition with regard to challenging the aforesaid notice and award after a period of two years. Under the circumstances, the present petition is required to be dismissed on the ground of delay and laches only. Apart from that, there is another aspect of the matter also to the effect that the petitioners have already allowed respondent No.1 authority to lay down the pipeline. Thereafter also, the authority passed the award. Under the circumstances, now it is not open for the petitioners to challenge the aforesaid notice as well as award. Under the circumstances, there is no substance in the present petition, and, hence, the same is dismissed.

(M.R.Shah,J)

(pathan)